

No. 9(1)82-6Lab/10368-A.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s G. M. Worsted Spinning Mills, Link Road, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 6/1979

between

THE WORKMEN AND M/S G. M. WORSTED SPINNING MILLS, LINK ROAD, FARIDABAD

Present.—

Shri G. S. Chaudhary, for the management.

Shri Parshotam Dass, for the workmen.

#### AWARD

The Government of Haryana referred the following dispute between the management of M/s G. M. Worsted Spinning Mills, Link Road, Faridabad and its workmen, by order No. FD/216-78/765, dated 5th January, 1982, to this Tribunal for adjudication, in exercise of powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workmen are entitled to the grant of dearness allowance ? If so, with what details ?
- (2) Whether the workmen are entitled to the grant of House Rent Allowance ? If so, with what details ?
- (3) Whether the workmen should be supplied with uniforms ? If so, with what details ?
- (4) Whether the workmen are entitled to the grant of cycle allowance ? If so, with what details ?
- (5) Whether the workmen are entitled to the grant of Bonus at 20 per cent for the year 1977 ? If so, with what details ?
- (6) Whether the grades and scales of pay of workmen be framed ? If so, with what details ?
- (7) Whether the workmen are entitled to the grant of annual increments with arrears ? If so, with what details ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 1st June, 1979 :—

- (1) Whether the demands have been espoused by substantial number of workmen ?
- (2) Whether the workmen are entitled to the grant of dearness allowance ? If so, with what details ?
- (3) Whether the workmen are entitled to the grant of house rent allowance ? If so, with what details ?
- (4) Whether the workmen should be supplied with uniforms ? If so, with what details ?
- (5) Whether the workmen are entitled to the grant of cycle allowance ? If so, with what details ?
- (6) Whether the workmen are entitled to the grant of Bonus at 20 per cent for the year 1977 ? If so, with what details ?
- (7) Whether the grades and scales of pay of workmen be framed ? If so, with what details ?
- (8) Whether the workmen are entitled to the grant of annual increments with arrears ? If so, with what details ?

The workmen examined Shri Ram Pher, ex-workman as WW-1, Shri Hari Ram, workman as WW-2, Shri Nanku Ram, workman, as WW-3 Shri Ram Hazoor as WW-4 and Shri Maha Dev, ex-workman as WW-5. The management examined Shri Shiv. Parshad, workman as MW-1, Shri Gurmail Singh, workman as MW-2, Shri Bhiwani Parshad as MW-3, Shri Ram Dhari workman as MW-4, Shri Vipin Mehra, Manager as MW-5. Arguments were heard.

I have gone through the file and found that issue No. 1 is of espousal. On this issue WW-1 deposed that in this factory there were 40 workmen and 38 of the workmen had been removed from service. He had raised the demands,—*vide* demand notice Ex. W-1. There were about 55 workmen who had sent the letter of authority. There was no other union of the factory. Name of the Union was G. M. Worsted Employees Union. WW-2 stated that Ex. W-1 was passed in the meeting. The workman had signed in the meeting. He did not know to whom the signatures were given. At that time, there were about 70 workers in the factory. In cross-examination, he replied that it was C. I. T. U. Union, who raised the demands. The President of the union was Shri Ram Pher. Proceeding of the meeting was recorded in the register. He did not remember the date and month of the meeting. He did not remember the date of demand notice. WW-3 deposed that demand notice Ex. M-1 was discussed in the meeting, and proceedings were recorded in the minutes book. About 52 of the workmen had signed the proceedings. In cross-examination, he stated that the register must be with the President. WW-4 and WW-5 also corroborated the statement of WW-3.

I find that it was signed by Shri Ram Pher, President. The name of the union was not given. No letter of authority was produced in the file on behalf of the workmen nor any record of proceedings of meeting was filed. It was unnecessary for the workmen to prove by evidence that they act together and arrived at an understanding either by a resolution or by other means and collectively supported the demand (1965—I—III—page 95). As I have given above that even the name of the union was not mentioned in the demand notice. Therefore, the workmen have failed to discharge the burden of the issue. Therefore, the reference fails on this ground. The workmen may raise demand afresh according to the law.

M. C. BHARDWAJ,

Dated 19th September, 1982.

Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 1038, dated 30th September, 1982.

Forwarded to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)82-6Lab/11374.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Trans Auto D.L.F. Industrial Area, Mathura Road, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR,  
COURT, HARYANA, FARIDABAD

Reference No. 145 of 1982

*between*

SHRI SUNIL KUMAR, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/s. TRANS  
AUTO D.L.F. INDUSTRIAL AREA, MATHURA ROAD, FARIDABAD

Shri M. K. Bhandari, for the workman.

Shri L. N. Yadav, for the respondent management.

#### AWARD

This reference No. 145 of 1982 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/66/82/25766, dated 7th June, 1982, under section 10 (i)(c) of the Industrial Disputes Act, 1947, existing between Shri Sunil Kumar, workman and the respondent management of M/s. Trans Auto D.L.F. Industrial Area, Mathura Road, Faridabad. The terms of the reference was :—

Whether the termination of services of Shri Sunil Kumar was justified and in order? If not, to what relief is he entitled?

On receipt of order of reference, notices were sent to the parties. The parties appeared and filed their pleadings. The case of the workman according to the demand notice is that he was working with the respondent from 23rd July, 1979 as hobbing operator at the rate of Rs 428 per mensem. On 1st February, 1982 the respondent stopped at the gate without assigning any reason for which he made a complaint to the Labour Inspector and Labour Officer, Faridabad. On 9th February, 1982 he submitted his demand notice to Labour-cum-Conciliation Officer and the Labour-cum-Conciliation Officer wrote the letter to the claimant that he report for duty with the respondent. On receiving this letter he went to the respondent but the respondent refused to take him on duty. The respondent has also not paid the wages for the months of November and December, 1981. So he again raised the demand of reinstatement with full back wages and continuity of service.

The case of the respondent according to the written statement is that the respondent management has not terminated the services of the workman and his name is still on the roll of the factory. The workman is absenting himself so the reference is premature and bad in law. The workman was working with the respondent since 23rd July, 1979 as a Hobbing Operator at the rate of Rs 370 per mensem and his last drawn salary was Rs 428 per mensem. The workman made an act of misconduct for which a charge-sheet dated 1st January, 1982 was issued which the workman received on the same day and instead of explaining the charge-sheet he started absenting from his duties and unnecessarily proceeded to complaint to the Labour Inspector, Faridabad. The workman also raised a demand for his reinstatement before the Labour-cum-Conciliation Officer, Faridabad. On the notice of the Labour-cum-Conciliation Officer, the management informed him about the case and requested him that the workman may be directed to join his duties but workman did not join his duty and again raised the demand. The management also issued notices to the workman to join his duties and explain the charges but he is abstaining himself. So the demand notices of the workman is prematured as there are certain charges against the workman which the workman abstaining. So the reference may be rejected.

On the pleadings of the parties, following issues were framed :—

- (1) Whether the workman abandoned his services of his own ? If so, to what effect ?
- (2) As per reference ?

After framing the issue, the representative of the management requested that the workman who is present in the court be directed to report for duty and he was directed by this Court to join his duty on 27th July, 1982. On 16th September, 1982 when the case was fixed for evidence of the respondent, none was present from the side of the respondent. I waited upto 12.10 p.m. and proceeded *ex parte* against the respondent and fixed the case for *ex parte* evidence of the workman for 28th September, 1982.

On 28th September, 1982, the *ex parte* evidence of the workman was recorded. The workman appeared himself as WW-1 and stated that he was working with the respondent from 23rd July, 1979 as Hobbing Operator and his wages were Rs 428 per mensem. On 1st February, 1982 the respondent stopped him at the gate on which he raised a demand notice on 9th February, 1982 which is Ex. W-1. On this demand notice the Labour Officer-cum-Conciliation Officer, Faridabad wrote the workman that his name was not struck off from the roll of the company and he join this duty immediately, which is Ex. M-2. He further stated that when he went to the factory to join his duty he was refused by the management and he again raised the demand notice on 3rd April, 1982, which was referred to this Court. He further stated that on the direction of this Court he also reported for duty on 27th July, 1982 but he was refused by the management. The workman further stated that the respondent has illegally terminated his services and prayed that he be reinstated with full back wages and continuity of service.

After goin through the file and documents filed in this court, I am of the view that the respondent has illegally terminated his service. The respondent made false statement before the Labour Officer-cum-Conciliation Officer and this Court that they are ready to take the workman on duty but when he went to join his duty he was refused by the management. If there are certain charges against the workman, the management should have contest the reference and proved these charges before this court. But instead of doing all this the management stopped coming in this court to contest their case. So I hold that the termination of services of the workman was neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages.

This be read in answer to this reference.

Dated the 26th October, 1982.

HARI SINGH KAUSHIK,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

Endst. No. 2302, dated 2nd November, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

HARI SINGH KAUSHIK,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.